



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-UFO

MAR 28 2006

CERTIFIED MAIL 7005-0390-0000-4846-5766
RETURN RECEIPT REQUESTED

Mr. Mike Guinn, District Manager
Newfield Rocky Mountains Inc.
Route 3, Box 3630
Myton, Utah 84052

Re: UNDERGROUND INJECTION
CONTROL PROGRAM (UIC)
Amended Proposed Order and Penalty
Complaint with Notice of Opportunity
for Hearing
Docket No. SDWA-08-2005-0058

Dear Mr. Guinn:

The enclosed document is an amended Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing ("amended complaint") for violations of the Safe Drinking Water Act ("SDWA"). A complaint in this matter was issued originally to Newfield on September 19, 2005. The amended complaint describes the rights and responsibilities in this matter with respect to Newfield Rocky Mountains Inc. and its subsidiary, Newfield Production Company ("Newfield"), as well as EPA's authority, the factual basis of the violation, and the background for the proposed penalty. Also enclosed is a copy of the required Public Notice associated with this amended complaint.

A copy of the Rules of Practice that govern these proceedings and an information sheet about the Small Business Regulatory Enforcement Fairness Act were included with the complaint issued on September 19, 2005, so no new copies of these documents are being provided.

Newfield is required to take action within 30 calendar days of its receipt of this amended complaint to avoid the possibility of having a default judgment entered against Newfield that could impose the penalty amount proposed in the amended complaint.

Whether or not Newfield requests a hearing, we encourage an informal conference with EPA concerning the alleged violation in an effort to negotiate a settlement. Newfield may wish to appear at an informal conference and/or be represented by legal counsel. To arrange for such a conference, Newfield should contact Amy Swanson, Enforcement Attorney, Legal Enforcement Program, at the number provided below. Request for such a conference does not extend the 30 calendar day period during which a request for hearing must be submitted.



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Public Notice of EPA's amended complaint and the opportunity to provide written comments on the amended complaint is being provided pursuant to section 1423 (c)(3)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(B). Should a hearing be held, any person who comments on the amended complaint has a right to participate in the hearing.

If Newfield has technical questions relating to this matter, the person most knowledgeable on my staff is Nathan Wiser, UIC Enforcement Team, Technical Enforcement Program, at 1-800-227-8917 ext. 6211 or (303) 312-6211. For all legal questions, the person most knowledgeable on my staff is Amy Swanson at 1-800-227-8917 ext. 6906 or (303) 312-6906. Mr. Wiser and Ms. Swanson can also be reached at the following addresses:

Nathan Wiser (Mail Code 8ENF-UFO)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466, or

Amy Swanson (Mail Code 8ENF-L)
Enforcement Attorney
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466.

We urge Newfield's prompt attention to this matter.

Sincerely,



Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

enc: Amended Proposed Order and Penalty Complaint
with Notice of Opportunity for Hearing
Public Notice

cc: Carolyn L. McIntosh, Esq.
Patton Boggs LLP
1660 Lincoln Street, Suite 1900
Denver, CO 80264

Elaine Willie, Environmental Coordinator (with all enclosures)
Ute Indian Tribe
P.O. Box 460
Fort Duchesne, Utah 84026

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No. SDWA-08-2005-0058

2006 MAR 28 PM 12:49

FILED
EPA REGION VIII
HEARING CLERK

In the Matter of:

Newfield Production Company
a Texas corporation,
Respondent.

Proceedings under Section 1423(c)
of the Safe Drinking Water Act
42 U.S.C. 300h-2(c)

)
)
) **AMENDED PROPOSED ORDER AND**
) **PENALTY COMPLAINT WITH NOTICE**
) **OF OPPORTUNITY FOR HEARING**
)

INTRODUCTION

1. This civil administrative enforcement action is authorized by Congress in section 1423(c) of the Public Health Service Act, also known as the Safe Drinking Water Act (SDWA or the Act). 42 § U.S.C. 300h-2(c). The Environmental Protection Agency (EPA) regulations authorized by the Act are set out in part 144 of title 40 of the Code of Federal Regulations (40 C.F.R.), and violations of permits or EPA regulations constitute violations of the Act. The rules for this proceeding are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits ("Rules of Practice")," 40 C.F.R. part 22, a copy of which was earlier provided.
2. The undersigned EPA official has been properly delegated the authority to issue this Amended Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing (amended complaint).
3. This amended complaint supersedes the Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing previously filed with the Regional Hearing Clerk on September 19, 2005.
4. EPA alleges that Newfield Production Company (Respondent) has violated the Act and proposes the assessment of a civil penalty, as more fully explained below.

NOTICE OF OPPORTUNITY FOR A HEARING

5. Respondent has the right to a public hearing before an administrative law judge to disagree with any factual allegation made by EPA in the amended complaint or the appropriateness of the proposed penalty, or to present the grounds for any legal defense it may have.

6. To disagree with the amended complaint and assert your right to a hearing, Respondent must file a written answer (and one copy) with the Region 8 Hearing Clerk at the following address:

Region 8 Hearing Clerk
999 18th Street; Suite 300 (8RC)
Denver, Colorado 80202,

within 30 calendar days of receiving this amended complaint. The answer must clearly admit, deny or explain the factual allegations of the amended complaint, the grounds for any defense, the facts you may dispute, and your specific request for a public hearing. Please see section 22.15 of the Rules of Practice for a complete description of what must be in the answer. **FAILURE TO FILE AN ANSWER AND REQUEST FOR HEARING WITHIN 30 CALENDAR DAYS MAY WAIVE RESPONDENT'S RIGHT TO DISAGREE WITH THE ALLEGATIONS OR PROPOSED PENALTY, AND RESULT IN A DEFAULT JUDGMENT AND ASSESSMENT OF THE PENALTY PROPOSED IN THE AMENDED COMPLAINT, OR UP TO THE MAXIMUM AUTHORIZED BY THE ACT.**

QUICK RESOLUTION

7. Respondent may resolve this proceeding at any time by paying the penalty amount proposed in the amended complaint. Such action to make payment need not contain any response to, or admission of, the allegations in the amended complaint. Such action to make payment constitutes a waiver of Respondent's right to contest the allegations and to appeal the final order. See section 22.18 of the Rules of Practice for a full explanation of the quick resolution process.

SETTLEMENT NEGOTIATIONS

8. EPA encourages discussing whether cases can be settled through informal settlement conferences. If you want to pursue the possibility of settling this matter, or have any other questions, contact Amy Swanson, Enforcement Attorney, at [1-800-227-8917; extension 6906 or 303-312-6906] or at the address identified in paragraph 22 herein. **Please note that calling Ms. Swanson or requesting a settlement conference does NOT delay the running of the 30 day period for filing an answer and requesting a hearing.**

GENERAL ALLEGATIONS

The following general allegations apply to all times relevant to this action, and to each count of this amended complaint:

9. Pursuant to section 1422 of the Act, 42 U.S.C. § 300h-1, and 40 C.F.R. part 147 subpart TT, section 147.2253, EPA administers the Underground Injection Control (UIC)

program for Class II wells in Indian country within the State of Utah. The effective date of the program is November 25, 1988. The program requirements are located at 40 C.F.R. parts 124, 144, 146, 147, and 148.

10. Class II underground injection wells under the jurisdiction of the EPA are authorized to operate either under an EPA-issued permit or under a rule. To be eligible to operate under rule-authorization, a UIC well must be a Class II enhanced oil recovery well and must have been such a well at the time the EPA UIC program became effective. The rule-authorization requirements are found in Title 40 of the Code of Federal Regulations (40 CFR), Subpart C (Sections 144.21 through 144.28). All other Class II wells must be authorized by an EPA-issued permit. Enhanced oil recovery wells are wells that inject for the purpose of increasing oil and/or gas production at other nearby production wells.
11. The well subject to this action is a Class II enhanced oil recovery well. The well is authorized under a permit issued by the EPA. At all times relevant to the violations alleged in this amended complaint the well was owned and/or operated by Respondent. The well is located within the exterior boundary of the Uintah & Ouray Indian Reservation. The specific well and location is the Odekirk #7-36-8-17, EPA Permit #UT20892-04601, T8S, R17E, Sec. 36, SW/4, NE/4.
12. The Odekirk #7-36-8-17 well was permitted by EPA to Inland Resources Inc. effective July 25, 2001.
13. The name of Inland Resources Inc. was changed to Newfield Rocky Mountains Inc., effective September 1, 2004.
14. Newfield Production Company is owned by and a production subsidiary of Newfield Rocky Mountains Inc.
15. For purposes of this amended complaint and any related matters, Respondent "Newfield" shall refer collectively to Newfield Rocky Mountains Inc. and its wholly owned subsidiary, Newfield Production Company.
16. The regulations at 40 CFR §146.23(a) and the UIC permit #UT20892-04601 at part II(C)(4) require that injection pressure at the Odekirk #7-36-8-17 well shall be limited so as not to cause unwanted fracturing of the underlying geologic formations, which may allow injected fluids to escape from the injection zone into underground sources of drinking water. The UIC permit #UT20892-04601 originally allowed an injection pressure up to 1396 pounds per square inch (psi), measured at the wellhead. On November 4, 2003, this limit was lowered by EPA to 950 psi. In its annual monitoring report for this well in 2004, Respondent reported that it injected at 1020 psi during the month of March 2004. In subsequent information received by EPA, Respondent reported that it injected at either 1000 or 1020 psi for a total of 15 days between March 15 and March 30, 2004. See Attachment A to this amended complaint where this violation is summarized and labeled with the letter "A."

17. EPA sent Respondent a notice of violation regarding its excess injection pressure in a letter dated May 12, 2005.
18. The Respondent is a corporation organized in the State of Texas and is authorized to do business in the State of Utah.
19. Respondent is a "person" within the meaning of Section 1401(12) of the Act, 42 U.S.C. § 300f(12).
20. The well penetrates underground sources of drinking water (USDWs) including, but not limited to, groundwater in the Uinta Formation from surface to approximately 1730 feet below surface and in the Green River Formation as deep as approximately 4500 feet below surface.
21. A summary of the violation alleged is included as Attachment A to this amended complaint.

COUNT 1

22. Respondent is in violation of the regulations at 40 CFR §146.23(a) and the UIC permit #UT20892-04601 at part II(C)(4) by exceeding the maximum authorized injection pressure of the Odekirk #7-36-8-17 well. The duration of the Respondent's violation is shown in detail in Attachment A, with each such violation labeled with the letter "A."

PROPOSED ORDER WITH ADMINISTRATIVE CIVIL PENALTY

23. For violations of the Act that occurred prior to March 16, 2004, the Act, as amended, authorizes the assessment of a civil penalty of up to \$27,500.00 per day. For violations of the Act that occurred on or after March 16, 2004, the Act, as amended, authorizes the assessment of a civil penalty of up to \$32,500.00 per day, 42 U.S.C. § 300h-2(b). The Act requires EPA to take into account the following factors in assessing a civil penalty: the nature, circumstances, extent and gravity of the violations; any economic benefit or savings gained resulting from the violations; Respondent's history of such violations; Respondent's culpability for the violations; Respondent's good-faith efforts to comply with applicable requirements; the economic impact of the penalty on the Respondent; and other factors that justice may require. 42 U.S.C. § 300h-2(c)(4)(B).
24. In light of the statutory factors and the specific facts of this case, EPA proposes that the Respondent be ordered to pay a penalty of **five thousand dollars (\$5,000)** for the violation alleged above, as explained below:

Nature, Circumstances, Extent, and Gravity of Violations

For the Odekirk #7-36-8-17 well, Respondent and/or its predecessor company Inland, had complete operational control over the well and could have prevented injection over the maximum allowable limit. Injection over the maximum allowable pressure limit can lead to injected fluids leaving the designated injection zone and entering USDWs.

Prior Compliance History

No adjustment made regarding this factor at this time.

Good-Faith Efforts to Comply

Respondent responded to EPA's May 12, 2005, letter regarding exceeding the maximum authorized injection pressure at the Odekirk 7-36-8-17 well by stating it posted a new maximum injection pressure at the well and conducted a meeting with employees.

Degree of Culpability

No adjustment made regarding this factor at this time.

Economic Benefit

No adjustment made regarding this factor at this time.

Ability to Pay

EPA did not reduce the proposed penalty due to this factor, but will consider any new information Respondent may present regarding Respondent's ability to pay the penalty proposed in this amended complaint.

Other Matters that Justice may Require

Inland was the well owner/operator at the time of the alleged violation, and the subject of two prior EPA enforcement actions for UIC violations.

25. Respondent's payment of the penalty shall be made by money order or certified check made payable to "Treasurer, United States of America" and mailed to the following address:


EPA - Region 8
Regional Hearing Clerk
P.O. Box 360859
Pittsburgh, Pennsylvania 15251

A copy of said check shall be mailed to the following address:

Amy Swanson (8ENF-L)
Enforcement Attorney
U.S. EPA - Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466.

26. The provisions of this amended complaint shall apply to and be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns.
27. As required by the Act, prior to the assessment of a civil penalty, EPA will provide public notice of the proposed penalty, and reasonable opportunity for people to comment on the matter, and present evidence in the event a hearing is held. 42 U.S.C. § 300h-2(c)(3)(B).
28. The administrative law judge is not bound by EPA's penalty policy or the penalty proposed by EPA, and may assess a penalty above the proposed amount, up to either \$27,500.00 or \$32,500.00, per day for each violation, as authorized in the statute, as amended.
29. This amended complaint does not constitute a waiver, suspension, or modification of the requirements of any applicable provision of the Act or the UIC regulations implementing the Act, which remain in full force and effect. Issuance of this amended complaint is not an election by the EPA to forego any civil or any criminal action otherwise authorized under the Act.

Issued this 22nd day of March, 2006



Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance,
and Environmental Justice
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

**U.S. ENVIRONMENTAL PROTECTION AGENCY
PUBLIC NOTICE
OPPORTUNITY FOR PUBLIC COMMENT ON
AN AMENDED PROPOSED ORDER AND PENALTY COMPLAINT
WITH NOTICE OF OPPORTUNITY FOR HEARING
AGAINST
NEWFIELD EXPLORATION COMPANY
FOR FAILURE TO COMPLY WITH
UNDERGROUND INJECTION CONTROL REGULATIONS**

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to solicit written comments on an Amended Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing (amended complaint) [Docket No. SDWA-08-2005-0058] that Region 8 of the United States Environmental Protection Agency (EPA) proposes to issue against Newfield Exploration Company, whose corporate headquarters office is located at 363 North Sam Houston Parkway East, Suite 2020, Houston, Texas 77060. The amended complaint alleges violations of the Underground Injection Control (UIC) regulations and proposes monetary penalties for the alleged violations. The amended complaint is issued under the UIC provisions of the Safe Drinking Water Act (SDWA) and the Act's implementing regulations. These regulations govern the injection of fluids that may endanger an underground source of drinking water (USDW). The original complaint was issued on September 19, 2005. Public notification of that matter was originally made in the Vernal Express on September 21, 2005, and subsequently on October 5, 2005.

The EPA desires to receive written comments from any interested party having knowledge of the alleged violations or who can provide any information useful to ensure that the penalties are appropriate. EPA will review any comments received on the amended complaint, and will thereafter determine whether to modify or withdraw the amended complaint or whether to modify the proposed penalty.

BACKGROUND

Part C of the SDWA requires the EPA to regulate underground injection of fluid through wells to assure that underground sources of drinking water (USDW) are not endangered. Section 1421 of the SDWA requires EPA to administer UIC programs in States or on Indian Lands that do not have approved State UIC programs. Regulation of the UIC Class II Program has not been delegated to the Ute Tribe; therefore, EPA administers the program in accordance with title 40 of the Code of Federal Regulations (40 C.F.R.), Parts 124, 144, 146, 147, and 148.

The one Class II injection well which is the subject of this amended complaint is owned and/or operated by Newfield Exploration Company. It is located in Township 8 South, Range 17 East, Section 36, SW/4, NE/4, in Uintah County. A Class II injection well, pursuant to 40 C.F.R.

144.6 and 146.5, is a well that injects fluids (a) brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production, (b) for enhanced recovery of oil or natural gas, or (c) for the storage of hydrocarbons which are liquid at standard pressure and temperature. The well subject to this reissued complaint is an enhanced oil recovery well, injecting into the Green River Formation for the purpose of enhancing oil at nearby oil production wells. This well is located within the exterior boundary of the Uintah & Ouray Indian Reservation.

The amended complaint alleges that Newfield Exploration Company is in violation of UIC regulations and is subject to appropriate penalties for exceeding the permissible injection pressure limit at this well. The amended complaint proposes that EPA assess an administrative civil penalty in the amount six thousand dollars (\$6,000.00).

PUBLIC COMMENTS

Written comments on the amended complaint are encouraged and will be accepted at the address listed below for a period of thirty (30) days after the publication of this notice. Written comments submitted by the public as well as information submitted by Newfield Exploration Company will be available for public review as part of the administrative record, subject to the provisions of law restricting the disclosure of confidential information. Newfield Exploration Company may request a hearing. Any person submitting written comments will be notified of and has a right to participate in such a hearing. The amended complaint and the administrative record are available for review between 9:00 a.m. and 4:00 p.m. at the address listed below. It is recommended that those wishing to view the administrative record call Amy Swanson, Enforcement Attorney, Legal Enforcement Program, EPA Region 8, at (303) 312-6906 before visiting the EPA Region 8 offices.

Please submit written comments to:

Tina Artemis (8RC)
Regional Hearing Clerk
U.S. EPA, Region 8
999 18th Street, Suite 500
Denver, Colorado 80202-2466.


A copy of the amended complaint will also be available for public review Monday-Thursday between 8 a.m. and 4 p.m. at the Ute Indian Tribal Environmental Program office, located in Fort Duchesne, Utah. It is recommended that you contact Elaine Willie, Environmental Coordinator of the Ute Indian Tribe, prior to visiting. She can be reached at (435) 722-9910. About a week after EPA sends its reissued complaint to Newfield Exploration Company, it can also be viewed on the following EPA webpage:
www.epa.gov/Region8/compliance/rhc.html.

Any person interested in receiving their own copy of this or any future public notice of a UIC administrative action can call Nathan Wiser in the UIC program, EPA Region 8, at (303) 312-6211.

THE DECISION

EPA will review and consider all public comments received on the amended complaint and will thereafter determine whether to modify or withdraw the amended complaint or whether to modify the proposed penalty. If the amended complaint is revised, copies shall be provided to all parties and to all members of the public who have commented.

Date of Publication


Elisabeth Evans, Director
Technical Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice
U.S. EPA, Region 8
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Denver, CO 80202-3466